

**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

Roy and Josie Fisher, et al.,

Plaintiffs,

v.

United States of America,

Plaintiff-Intervenor,

v.

Anita Lohr, et al.,

Defendants,

and

Sidney L. Sutton, et al.,

Defendants-Intervenors,

CV 74-90 TUC DCB  
(Lead Case)

Maria Mendoza, et al.,

Plaintiffs,

United States of America,

Plaintiff-Intervenor,

v.

Tucson Unified School District No. One, et al.,

Defendants.

CV 74-204 TUC DCB  
(Consolidated Case)

**SPECIAL MASTER'S REPORT AND  
RECOMMENDATION REGARDING ROBERTS-NAYLOR**

**Introduction**

In its March 8, 2016 order the Court directed the District as follows:

*TUSD shall prepare a detailed report regarding the academic and demographic condition at Roberts-Naylor and describe the measures, if any, which have been or could be taken by TUSD to transform Roberts-Naylor into a viable K-8 program capable of competing with the middle schools now attracting the Borman students. TUSD should explain why or why not it is feasible to implement any such identified measures. TUSD should consider a time line to accomplish a transformation at Roberts-Naylor sufficient to begin attracting students that currently choose to go elsewhere.*

The District was to report to the Court within 30 days. It submitted its report to the plaintiffs and the Special Master on April 15 (*see* Exhibit A). The Court ordered that the Special Master prepare a report and recommendation dealing with the District's report within 14 days.

The Court required the District's report because TUSD had proposed to add grades seven and eight to the Borman Elementary School which is located on the Davis-Monthan Air Force Base. This proposal by the District was objected to by the Fisher plaintiffs who are concerned, in part, that this move will draw students from the Roberts-Naylor's K-8 school which is located outside the base and would have negative consequences for integration. It also possible that the Borman grade configuration could negatively affect other TUSD schools. Currently Roberts-Naylor is 26% African-American, 11% Anglo and 54% Latino. Borman Elementary is 53% Anglo, 14 % African American and 21% Latino. The latest grade assigned to Roberts-Naylor by the state of Arizona is C; Borman Elementary school is an A school.

On April 27, 2016, the Commander of the Davis-Monthan Air Force Base sent a letter to the District strongly supporting the District's proposal to expand Borman to a K-8 school. That letter, which was shared with the Special Master on May 3, 2016, is attached as Exhibit B. Because May 4 was the day the Special Master was to file his R&R related to the District's

1 report on Roberts-Naylor, on May 4 the Special Master filed an unopposed request for an  
 2 extension to file his R&R on May 11, 2016.

### 3 **Analysis**

4 To answer the question posed by the Court the District presumably would have to do the  
 5 following:  
 6

- 7 1. Identify the schools with grades 6-8 now serving former Borman students.
- 8 2. Identify the academic programs and other learning resources the competing schools offer,  
 9 their demographic characteristics and indicators of student outcomes.
- 10 3. Compare what is and could be available at Roberts-Naylor that would allow it to compete  
 11 with the schools former Borman students now attend.

12 The District provides a relatively detailed description of academic and other activities and  
 13 learning resources available at Roberts-Naylor, but it does not provide any information about the  
 14 schools it identifies as current competition for Roberts-Naylor, namely Sonora Science Academy  
 15 charter school, Alice Vail Middle School (TUSD), Vail School District middle schools and  
 16 “Private Parochial Schools.” The one exception is that Sonora Science Academy charter school  
 17 is described as a C school.  
 18

19 The District concludes, “based on available evidence” – which is not described except for  
 20 a survey of dubious value – that the least important factors contributing to parents’ decisions  
 21 regarding middle school off-base attendance are proximity to work, keeping siblings together,  
 22 keeping students within the military community, aftercare/extended day, special academic  
 23 programs, accommodation for exceptional education, and ethnic and cultural diversity. (This  
 24 conclusion about academic programs is contradicted elsewhere in the report). The report goes on  
 25 to say that two of the factors identified as attractive to parents could potentially be replicated by  
 26 special academic programs and safety and security to make Roberts-Naylor more competitive.  
 27  
 28 In any event, this assumption is based on a survey conducted for the District in which the

1 response rate was about 10%. Such a low response rate almost guarantees that the responses are  
2 not representative.

3 With respect to safety and security, it seems safe to conclude that virtually all parents  
4 value this school characteristic. Using student and parental surveys conducted by the District at  
5 Roberts-Naylor the District concludes that parents who send their children to Roberts-Naylor feel  
6 that safety is not an issue. However 39% of parents at Roberts-Naylor disagree with the  
7 statement, "I rarely hear that students will you harass others;" 42% of students disagree with the  
8 statement that, "This year I have rarely been the victim of bullying;" more than 50% disagree  
9 with the statement, "Students behave during class;" and more than one in five say they do not  
10 feel safe at school. Perhaps parents at Roberts-Naylor have a high tolerance for unsafe  
11 conditions, but if these TUSD surveys are relatively valid and students and parents shared the  
12 views cited above with prospective attendees, it seems reasonable to conclude this would  
13 discourage attendance at Roberts-Naylor. The District does have data on the incidence of  
14 various types of disciplinary problems in all of its schools but it does not cite that evidence in its  
15 report.  
16

17  
18 At one point in its report, the District says that special academic programs are not likely  
19 to be important to parents in the schools that they select for their students. Despite such a  
20 statement, the District then lists possible programs to consider adding to Roberts-Naylor. This is  
21 guesswork. Some of these programs might work and the District has had experience with some  
22 of them at other schools, but it does not cite that evidence. One of the "possible" programs  
23 identified is self-contained gifted and talented education (GATE). However, there are existing  
24 self-contained GATE programs at a TUSD elementary school and a TUSD middle school that  
25 are in close proximity to the base and to Roberts-Naylor. The TUSD middle school is rated more  
26 highly than Roberts-Naylor and is difficult to understand why former Borman students would  
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1 choose to attend Roberts-Naylor rather than the other District schools.

2       The District concludes that while the addition of new programs to Roberts-Naylor could  
3 improve the education the children at that school,” it is unlikely that such changes would result  
4 in attracting significant numbers of students from the base to attend Roberts-Naylor.” Despite  
5 the weaknesses in the District’s analysis, I agree with this conclusion. Military communities  
6 tend to have a strong commitment to on-base schools. And, there is no reason to believe that  
7 adding new programs at this time to Roberts-Naylor would significantly alter the current patterns  
8 of attendance among students from Borman Elementary School. The only thing that might  
9 change family decisions is if Roberts-Naylor were one of TUSD’s top schools.  
10

### 11 **Recommendations**

12       As is true for the majority of TUSD schools, it would be desirable to strengthen Roberts-  
13 Naylor. But this is not likely to foster integration. The fact that Roberts-Naylor serves a  
14 relatively large number of African-American students makes it a candidate for additional  
15 investment. However, in light of limited resources, whether it is more urgent to strengthen  
16 Roberts-Naylor than other schools with weaker student performance should be carefully  
17 considered.  
18

19       If a decision is made to prioritize further investments in improving the learning  
20 opportunities for students at Roberts-Naylor, the addition of “special academic programs” does  
21 not seem the place to start. The most important determinants of student learning are the  
22 effectiveness of teachers and school principals. First things first; strengthen teaching and  
23 leadership in the school. Then identify programs that are responsive to particular needs of  
24 Roberts-Naylor students based on evidence of their performance and behavior. For example,  
25 English-Language Arts is a particular challenge for Roberts-Naylor students, probably because  
26 of the large number of students from other countries for whom English is not their native  
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1 language. In any event, the Court should not order additional investments in Roberts-Naylor.  
2 This decision should be made by the District.

3         The Court should approve the District's proposal to expand Borman Elementary School  
4 to a K-8 school. As noted above, the Fisher plaintiffs objected because of the potential effect  
5 that adding middle grades to Borman might have on District schools, particularly Roberts-  
6 Naylor. However, because the only students living off-base who would attend Borman K-8  
7 School are members of military families or children of civilian employees who work on the base,  
8 the likelihood that this would involve many students is low. Only eight middle school students  
9 who formerly attended Borman now attend grades 7-8 at Roberts-Naylor and Vail Middle School  
10 (three Anglo, four Latino and one African American); two of these students attend Roberts-  
11 Naylor. As the base commander notes in his letter, most families connected with the military  
12 prefer to send their children to on-base education; in this case, it is a mediocre Sonora Science  
13 Academy.  
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16         While adding middle school grades to Borman is not likely to affect levels of integration  
17 in TUSD schools one way or the other, the District is not proposing to use 910G funds to  
18 implement the Borman proposal.

19         Creating a K-8 school at Borman will increase the quality of education available to the  
20 children of military families. Borman is an A school; the on-base charter school is a C school.  
21 This support for the military can be achieved without financial cost to the District even when the  
22 one-time remodeling costs about \$60,000 are taken into account. Per-pupil state funds allocated  
23 to the District will exceed the costs of staffing, materials and upkeep. In out years, the District  
24 estimates that revenue will exceed costs by about \$120,000 a year.  
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26         Finally, expanding the Borman Elementary will be evidence of commitment of the larger  
27 Tucson community to the Base. This evidence can be used when recurrent assessments by the  
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1 Department of Defense of potential base the closings are considered.  
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4 Respectfully submitted,  
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6 /s/  
7 \_\_\_\_\_  
8 Willis D. Hawley  
9 Special Master  
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11 Dated: May 11, 2016  
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**CERTIFICATE OF SERVICE**

I hereby certify that on, May 11, 2016, I electronically submitted the foregoing SPECIAL MASTER'S REPORT AND RECOMMENDATION REGARDING ROBERTS-NAYLOR for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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Andrew H. Marks for  
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